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7

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 **RIVERSIDE DIVISION**

11

12 In re Case No. 6:22-bk-14723-MH

13 BETTER NUTRITIONALS, LLC,

14 Debtor and Debtor in
Possession.

Chapter 11

15 **NOTICE OF MOTION AND MOTION**
16 **FOR ORDER ESTABLISHING**
17 **PROCEDURES FOR THE PAYMENT OF**
18 **INTERIM COMPENSATION AND**
19 **REIMBURSEMENT OF EXPENSES (11**
20 **U.S.C. §§ 105(a) AND 331); AND**
21 **MEMORANDUM OF POINTS AND**
22 **AUTHORITIES AND DECLARATION OF**
23 **SHARON HOFFMAN IN SUPPORT**
24 **THEREOF**

25 Date: January 31, 2023

26 Time: 2:00 p.m.

27 Place: Courtroom 301
3420 Twelfth Street
Riverside, California 92501

28 **TO THE HONORABLE MARK HOULE, UNITED STATES BANKRUPTCY JUDGE, AND**
PARTIES IN INTEREST:

29 **PLEASE TAKE NOTICE** that on January 31, 2023, at 2:00 p.m., in Courtroom 301 of the
30 United States Bankruptcy Court for the Central District of California, Riverside Division, located at
31 3420 Twelfth Street, Riverside, California 92501, debtor and debtor in possession Better
32 Nutritionals, LLC (the “Debtor”), will and hereby moves for entry of an order establishing a

1 procedure for monthly payments of compensation and reimbursement of expenses incurred by the
2 Debtor's professionals pursuant to 11 U.S.C. §§ 105(a) and 331.

3 The motion requests that the Court approve the following procedures providing for monthly
4 interim payments of compensation and reimbursement of actual expenses incurred by the Debtor's
5 (and the estate's) professionals:

6 **1. Optional Procedure.** These procedures are optional and need only be followed if a
7 professional is seeking monthly compensation. If the Debtor determines that, for any reason, it
8 would be imprudent to make the payments permitted under this procedure, the Debtor may defer
9 making payments to professionals until such time that payments are ordered to be made by the
10 Court in connection with noticed fee applications.

11 **2. Scope.** These procedures apply only to requests for payment of fees and expenses
12 incurred from the Petition Date or the effective date of employment of the professionals, whichever
13 is later.

14 **3. Professionals Entitled to Seek Payments Pursuant to These Procedures.** The
15 following professionals may request payment of compensation and expenses in accordance with
16 these procedures:

17 (a) Danning Gill (general bankruptcy counsel);
18 (b) CSA (financial consultant, responsible for accounting, financial analysis, and
19 associated compliance);
20 (c) Force 10 (financial advisor);
21 (d) Folkenflik (special litigation counsel);
22 (e) Stursberg (special corporate counsel);
23 (f) professionals employed in the future by the Debtor and a committee (if
24 formed), with respect to which the Court's order approving such employment authorizes the
25 professional to seek compensation and reimbursement of expenses pursuant to these procedures;
26 and
27 (g) professionals not employed pursuant to section 328 of the Bankruptcy Code.

28 For the avoidance of doubt: These procedures do not apply to "ordinary course" professionals
29 employed by the Debtor pursuant to section 363 of the Code.

30 **4. Deadline for Filing Monthly Statements.** On or before the 20th day of each
31 month following the month for which compensation and reimbursement of expenses is sought, each
32 professional may file a monthly statement with the Court itemizing the fees and costs incurred by
33 such professional. The filing of the monthly statement will constitute service on the Debtor, the
34 U.S. Trustee, the Committee's counsel, and parties who have registered to receive electronic
35 notices of documents filed in this case. If an official committee has not been appointed when the
36 monthly statement is filed, it will be served by mail upon the creditors holding the 20 largest
37 general unsecured claims in this case.

1 **5. Contents.** Each monthly statement must include the following information:
2 (a) the total amount of fees for which compensation is sought;
3 (b) the total amount of expenses for which reimbursement is sought;
4 (c) the names, hourly rates, total number of hours billed, and total amount of fees incurred by each individual providing services for which compensation is sought;
5 (d) a detailed listing of all time spent by the professional on matters for which compensation is sought (redacted as deemed appropriate by the Debtor); and
6 (e) a summary listing of all expenses, by category (e.g., photocopy costs, facsimile charges, travel, messenger and computer research), for which reimbursement is sought.

7 **6. Objections.** Any objection to a monthly statement must be filed no later than 10 days after the date on which the monthly statement is filed (the “Objection Deadline”). The objection must (a) be in writing, (b) set forth the precise nature of the objection, the grounds therefore, and the amount of fees and/or expenses to which the objection applies, and (c) be filed with the Court and served on the professional so that it is received by the professional on or before the Objection Deadline. A “blanket” or general objection to a monthly statement will be deemed to be a nullity and will not trigger the provisions of paragraph 8 below. A “joinder” to an objection will also be deemed a nullity if the joinder is not filed and served on or before the Objection Date.

12 **7. Interim Payment Authorized if No Objection.** If no objection to the monthly statement is filed and served within 10 days after the filing and service of the monthly statement, the Debtor may pay the Professional a percentage of its fees and 100% of the expenses for which payment was sought. (In the case of Danning Gill, Force 10, Folkenflik, Stursberg, and any professionals employed by an official committee, 80% of monthly fees will be paid; in the case of CSA, 90% of monthly fees will be paid; in other cases, the percentage will be set forth in the affected professional’s employment application.) Such payments will be made on an interim basis and will be subject to the filing of interim and final fee applications.

17 **8. Procedure If Objection Is Filed.** If a timely written objection to the monthly statement is filed by a party-in-interest, the Debtor will not pay the applicable professional the amount of the disputed funds until the objection has been consensually resolved by the objecting party and the professional. If the parties do not reach a consensual resolution of the objection, the professional may either (a) set the matter for hearing on at least 14 days’ notice to the objecting party, or (b) forego payment of the disputed amount and seek approval of such disputed amount in connection with its next interim, or final, fee application. Notwithstanding any objection to a monthly statement, the professional may be paid any undisputed amount of fees and costs represented by a monthly statement..

23 **9. Interim Payment of Amounts to Which No Objection is Made.** Pending resolution of any timely objection, the Debtor may pay the professional the lesser of (a) 80% (or 90% for CSA) of the fees and 100% of the expenses requested in the monthly statement, and (b) the aggregate amount of fees and expenses requested in the monthly statement as to which no timely objection was made.

26 **10. Fee Applications Required.** In accordance with § 331 and applicable rules and guidelines, each Professional will file and serve (in accordance with the Bankruptcy Code and federal and local rules) an application for Court approval of interim compensation (including any amounts held back pursuant to subparagraphs (b) and (c) above) and reimbursement of expenses

1 not less frequently than every 120 days. Any professional who fails to file an application for
2 interim compensation when due will be ineligible to receive further monthly payments of fees and
3 expenses pursuant to the filing of monthly statements as provided above, until such professional
4 submits an application for interim compensation which is then ruled upon by the Court.

5 **11. Effect of Objection on Future Fee Requests.** The pendency of an objection to
6 payment of compensation or expenses requested by a professional in a particular monthly statement
7 or interim fee application will not prevent such professional from receiving payment of fees and
8 expenses pursuant to future monthly statements served in accordance with these procedures, except
9 as otherwise ordered by the Court.

10 **12. No Waiver of Objections.** Neither the payment of, nor the failure of any party to
11 object to, fees and expenses requested in a monthly statement will in any way act as a waiver of the
12 right to later object to such fees and expenses, or otherwise bind any party or the Court with respect
13 to the subsequent consideration of the interim or final allowance of fees and expenses of any
14 professional.

15 This motion is based upon this notice and motion, the declaration of Sharon Hoffman, the
16 papers and pleadings on file in this case, and such other evidence as may be presented to the Court.

17 **PLEASE TAKE FURTHER NOTICE** that any party seeking to object to the relief sought
18 must, not later than 14 days before the hearing date, file a written opposition with the Clerk of the
19 Court and serve copies of the opposition upon the Debtor's counsel. Failure to file and serve
20 oppositions as set forth above may be deemed consent to the relief sought in the motion. If you do
21 not have any objection to the motion, you need not take any further action.

22 DATED: January 10, 2023

23 DANNING, GILL, ISRAEL & KRASNOFF, LLP

24 By: /s/ Aaron E. de Leest

25 AARON E. DE ELEEST
26 Proposed Attorneys for Debtor and
27 Debtor-in-Possession, Better Nutritionals, LLC

MEMORANDUM OF POINTS AND AUTHORITIES

L.

INTRODUCTION

4 Section 331 of the Bankruptcy Code provides that an estate's professionals are entitled to
5 submit applications for interim compensation and reimbursement of expenses not more often than
6 every 120 days. Given the demanding pace and scope of services required in larger chapter 11
7 cases, courts routinely establish procedures pursuant to which professionals may receive some
8 compensation, and have their expenses reimbursed, on a monthly basis. Such procedures allow
9 debtors, creditors, committees, and other interested parties to better monitor professionals' fees on
10 an ongoing basis, allow estates to maintain a more level cash flow, and promote efficient cash
11 management. Such procedures also mitigate the burden on professionals who otherwise are
12 required to wait an extended period of time to receive payment for their valuable services. For
13 these reasons, the Debtor is requesting that the Court establish such procedures in this case for fees
14 and expenses incurred by the Debtor's professionals.

15 Better Nutritionals, LLC (the “Debtor”) intends to file applications to employ the following
16 professionals, and others if the need arises: Danning, Gill, Israel & Krasnoff, LLP (“Danning
17 Gill”), as general bankruptcy counsel; CSA Partners, LLC (“CSA”), as financial consultant; Force
18 10 Partners (“Force 10”), as financial advisor; Folkenflik & McGerity (“Folkenflik”), as special
19 litigation counsel; and Stursberg and Associates, LLC (“Stursberg”), as special corporate counsel
20 (collectively, the “Professionals). The Debtor requests authority to pay the Professionals monthly.
21 As to Danning Gill, Force 10, Folkenflik, and Stursberg, the Debtor requests authority to pay 80%
22 of the monthly fees and 100% of reimbursable costs on a monthly basis pursuant to the terms
23 described herein, with the balance to be subject to payment pursuant to the fee application process
24 under section 330 and 331 of the Bankruptcy Code. The Debtor requests authority to pay CSA (a
25 small firm) 90% of its fees monthly, and 100% of reimbursable costs, which will also be subject to
26 the fee application and approval process under section 330 and 331. Employment applications for
27 any other professional will state whether the Debtor is proposing a 10% or 20% holdback on fees
28 for that particular professional.

II.

BACKGROUND FACTS

A. **BANKRUPTCY BACKGROUND**

On December 20, 2022 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor remains in possession of its property and continues to operate its business as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

B. THE DEBTOR'S HISTORY AND BUSINESS OPERATIONS

The Debtor is a state-of-the-art contract manufacturer and R&D leader in nutritional supplements. The Debtor specializes in making cutting-edge formulations of gummy supplements focused on personal health and wellness. The Debtor's output capacity currently is about nine billion gummies per year. It is an FDA-registered manufacturer, and meets stringent standards to label its products as vegan, Kosher-certified, and free of top-8 allergens and gluten.

The Debtor's headquarters is located at 3390 Horseless Carriage Drive, Norco, California. Its four-building campus in Norco contains approximately 422,000 square feet of manufacturing, warehouse, R&D and office space. The Debtor also manufactures products in an 18,000 square foot facility in Gardena, where it was headquartered until 2021.

C. THE DEBTOR'S PLAN FOR THIS CASE

The Debtor is continuing to formulate a long-term plan for its operations. The Debtor's founders believe that the Debtor has great potential, and can position itself well in a global gummy market that is expected to grow significantly over at least the next six years. It is already pivoting toward doing more business with non-Goli customers and being less dependent on revenues from customers that refuse to honor their commitments. The Debtor's long-term plan will be influenced by, among other things, the Debtor's ability to generate revenues during the case, cuts in expenses, the willingness of suppliers to continue to do business with the Debtor, the potential for short-term

1 and/or long-term financing, offers (if any) it may receive from potential purchasers, and recoveries
2 from Goli and others whose actions the Debtor asserts have caused damage to the Debtor and its
3 creditors.

4

5 **III.**

6 **THE DEBTOR'S EMPLOYMENT OF PROFESSIONAL PERSONS**

7 The Debtor intends to file applications to employ the following professionals: Danning,
8 Gill, Israel & Krasnoff, LLP (“Danning Gill”), as general bankruptcy counsel; CSA Partners, LLC
9 (“CSA”), as financial consultant; Force 10 Partners (“Force 10”), as financial advisor; Folkenflik &
10 McGerity (“Folkenflik”), as special litigation counsel; and Stursberg and Associates, LLC
11 (“Stursberg”) as special corporate counsel (collectively, the “Professionals”). The Debtor will seek
12 to employ the Professionals as general disinterested advisors to the Debtor pursuant to section
13 327(a) with compensation to subject to interim and final approvals under sections 330 and 331.

14 From time to time, the Debtor may determine that it is necessary or appropriate to hire other
15 or additional professionals to represent or counsel the Debtor in matters involving the estate. The
16 Debtor’s employment of such professionals will, of course, be subject to Court approval and their
17 compensation and reimbursement of expenses will be subject to the Court-approved terms of their
18 employment.¹

19 The Debtor also anticipates that a creditors’ committee will likely be empaneled in this case
20 and that the committee will engage counsel.

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¹ The Debtor also may file a motion for authority to employ “ordinary course” professionals pursuant to section 363 of the Bankruptcy Code.

IV.

PROPOSED PROCEDURES

The Debtor is requesting that the Court approve the following procedures providing for monthly interim payments of compensation and reimbursement of actual expenses incurred by the Debtor's (and estate's) professionals:

6 **1. Optional Procedure.** These procedures are optional and need only be followed if a
7 professional is seeking monthly compensation. If the Debtor determines that, for any reason, it
8 would be imprudent to make the payments permitted under this procedure, the Debtor may defer
9 making payments to professionals until such time that payments are ordered to be made by the
10 Court in connection with noticed fee applications.

11 **2. Scope.** These procedures apply only to requests for payment of fees and expenses
12 incurred from the Petition Date or the effective date of employment of the professionals, whichever
13 is later.

14 **3. Professionals Entitled to Seek Payments Pursuant to These Procedures.** The
15 following professionals may request payment of compensation and expenses in accordance with
16 these procedures:

17 (a) Danning Gill (general bankruptcy counsel);
18 (b) CSA (financial consultant, responsible for accounting, financial analysis, and
19 associated compliance);
20 (c) Force 10 (financial advisor);
21 (d) Folkenflik (special litigation counsel);
22 (e) Stursberg (special corporate counsel);
23 (f) professionals employed in the future by the Debtor and a committee (if
24 formed), with respect to which the Court’s order approving such employment authorizes the
25 professional to seek compensation and reimbursement of expenses pursuant to these procedures;
26 and
27 (g) professionals **not** employed pursuant to section 328 of the Bankruptcy Code.

1 For the avoidance of doubt: These procedures do not apply to “ordinary course” professionals
2 employed by the Debtor pursuant to section 363 of the Code.

3 **4. Deadline for Filing Monthly Statements.** On or before the 20th day of each
4 month following the month for which compensation and reimbursement of expenses is sought, each
5 professional may file a monthly statement with the Court itemizing the fees and costs incurred by
6 such professional. The filing of the monthly statement will constitute service on the Debtor, the
7 U.S. Trustee, the Committee’s counsel, and parties who have registered to receive electronic
8 notices of documents filed in this case. If an official committee has not been appointed when the
9 monthly statement is filed, it will be served by mail upon the creditors holding the 20 largest
10 general unsecured claims in this case.

11 **5. Contents.** Each monthly statement must include the following information:

12 (a) the total amount of fees for which compensation is sought;
13 (b) the total amount of expenses for which reimbursement is sought;
14 (c) the names, hourly rates, total number of hours billed, and total amount of
15 fees incurred by each individual providing services for which compensation is sought;
16 (d) a detailed listing of all time spent by the professional on matters for which
17 compensation is sought (redacted as deemed appropriate by the Debtor); and
18 (e) a summary listing of all expenses, by category (e.g., photocopy costs,
19 facsimile charges, travel, messenger and computer research), for which reimbursement is sought.

20 **6. Objections.** Any objection to a monthly statement must be filed no later than **10**
21 days after the date on which the monthly statement is filed (the “Objection Deadline”). The
22 objection must (a) be in writing, (b) set forth the precise nature of the objection, the grounds
23 therefore, and the amount of fees and/or expenses to which the objection applies, and (c) be filed
24 with the Court and served on the professional so that it is received by the professional on or before
25 the Objection Deadline. A “blanket” or general objection to a monthly statement will be deemed to
26 be a nullity and will not trigger the provisions of paragraph 8 below. A “joinder” to an objection
27 will also be deemed a nullity if the joinder is not filed and served on or before the Objection Date.

1 **7. Interim Payment Authorized if No Objection.** If no objection to the monthly
2 statement is filed and served within 10 days after the filing and service of the monthly statement,
3 the Debtor may pay the Professional a percentage of its fees and 100% of the expenses for which
4 payment was sought. (In the case of Danning Gill, Force 10, Folkenflik, Stursberg, and any
5 professionals employed by an official committee, 80% of monthly fees will be paid; in the case of
6 CSA, 90% of monthly fees will be paid; in other cases, the percentage will be set forth in the
7 affected professional's employment application.) Such payments will be made on an interim basis
8 and will be subject to the filing of interim and final fee applications.

9 **8. Procedure If Objection Is Filed.** If a timely written objection to the monthly
10 statement is filed by a party-in-interest, the Debtor will not pay the applicable professional the
11 amount of the disputed funds until the objection has been consensually resolved by the objecting
12 party and the professional. If the parties do not reach a consensual resolution of the objection, the
13 professional may either (a) set the matter for hearing on at least 14 days' notice to the objecting
14 party, or (b) forego payment of the disputed amount and seek approval of such disputed amount in
15 connection with its next interim, or final, fee application. Notwithstanding any objection to a
16 monthly statement, the professional may be paid any undisputed amount of fees and costs
17 represented by a monthly statement..

18 **9. Interim Payment of Amounts to Which No Objection is Made.** Pending
19 resolution of any timely objection, the Debtor may pay the professional the lesser of (a) 80% (or
20 90% for CSA) of the fees and 100% of the expenses requested in the monthly statement, and (b)
21 the aggregate amount of fees and expenses requested in the monthly statement as to which no
22 timely objection was made.

23 **10. Fee Applications Required.** In accordance with § 331 and applicable rules and
24 guidelines, each Professional will file and serve (in accordance with the Bankruptcy Code and
25 federal and local rules) an application for Court approval of interim compensation (including any
26 amounts held back pursuant to subparagraphs (b) and (c) above) and reimbursement of expenses
27 not less frequently than every 120 days. Any professional who fails to file an application for
28 interim compensation when due will be ineligible to receive further monthly payments of fees and

1 expenses pursuant to the filing of monthly statements as provided above, until such professional
2 submits an application for interim compensation which is then ruled upon by the Court.

3 **11. Effect of Objection on Future Fee Requests.** The pendency of an objection to
4 payment of compensation or expenses requested by a professional in a particular monthly statement
5 or interim fee application will not prevent such professional from receiving payment of fees and
6 expenses pursuant to future monthly statements served in accordance with these procedures, except
7 as otherwise ordered by the Court.

8 **12. No Waiver of Objections.** Neither the payment of, nor the failure of any party to
9 object to, fees and expenses requested in a monthly statement will in any way act as a waiver of the
10 right to later object to such fees and expenses, or otherwise bind any party or the Court with respect
11 to the subsequent consideration of the interim or final allowance of fees and expenses of any
12 professional.

13 In addition to these procedures, the Debtor's Professionals will adhere to the *Guide to*
14 *Applications for Retainers, and Professionals and Insider Compensation*, promulgated by the
15 Office of the United States Trustee, when drawing down on any applicable retainers.

16

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V.

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ARGUMENT

19 Section 331 of the Code provides for the payment of interim compensation to professionals
20 retained by trustees, debtors in possession, and official committees. In enacting this and related
21 provisions, Congress adopted the principle that “[p]rofessionals in bankruptcy cases are entitled to
22 be paid on a comparable basis to other privately retained counsel, both in terms of timeliness and
23 amount of payment.” *In re Commercial Consortium of Cal.*, 135 B.R. 120, 123 (Bankr. C.D. Cal.
24 1991) (citing *Burgess v. Klenske (In re Monoa Fin. Co., Inc.)*, 853 F.2d 687, 690 (9th Cir. 1988));
25 *In re Nucorp Energy, Inc.*, 764 F.2d 655, 658-59 (9th Cir. 1985); *First Nat'l Bank of Chicago v.*
26 *Comm. of Creditors Holding Unsecured Claims (In re Powerine Oil Co.)*, 71 B.R. 767, 770 (9th
27 Cir. BAP 1986).

28

1 LBR 2016-1(b) provides:

2 **Motions to Approve Compensation Procedures in Chapter 11**
3 **Cases, Including Monthly Draw-down and Contingency or**
4 **Success Fee Agreements.** A professional person employed in a
chapter 11 case may request approval for and modifications of draw-
down procedures and an order allowing

5 LBR 2016-1(b).

6 The Bankruptcy Appellate Panel for the Ninth Circuit has recognized that interim payments
7 for professionals on a monthly basis are appropriate in large cases. *See U.S. Trustee v. Knudsen*
8 *Corp. (In re Knudsen Corp.)*, 84 B.R. 668 (9th Cir. BAP 1988). In *Knudsen*, the BAP observed
9 that

10 the problem, arising especially in large cases, is that when counsel
11 must wait an extended period for payment, counsel is essentially
12 compelled to finance the reorganization. This result is improper and
13 may discourage qualified practitioners from participating in
bankruptcy cases; a result that is clearly contrary to Congressional
14 intent.

15 *Id.* at 672. Monthly payments to professionals may be appropriate without prior court approval so
16 long as they are made pursuant to a procedure that provides the opportunity for subsequent review
17 by the court. *Id.* at 671-72. The procedure proposed in this motion provides ample opportunity for
such review.

18 Furthermore, in *Knudsen* the BAP identified four factors a court may consider when
19 determining whether to adopt procedures such as those proposed by the Debtor in this case: (1) the
20 case is an unusually large one in which an exceptionally large amount of fees accrue each month;
21 (2) the court is satisfied that waiting an extended period of time for payment will place an undue
22 hardship on professionals; (3) the court is satisfied that the professionals will be able to respond to
23 any subsequent reassessment of fees paid pursuant to the procedures; and (4) the procedures are the
24 subject of a noticed hearing prior to any payment thereunder. *Id.* at 672-73.

25 First, although this case is not the size of a Hertz or American Airlines, it is sufficiently
26 large to warrant the approval of procedures outlined above. The Debtor's professionals are
27 providing significant services to the estate, and are expected to do so going forward until the
28 Debtor's business is repaired and a chapter 11 plan confirmed.

1 Second, waiting 120 days would be a substantial financial burden for the solo and small
2 firm professionals, such as CSA. Although Danning Gill, Force 10, Folkenflik, and Stursberg have
3 more capacity, they are committing a significant amount of attorney, paraprofessional and staff
4 resources to this case, such that the wait would create financial burdens.

5 Third, Danning Gill, Force 10, Folkenflik, and Stursberg, are committing to a 20%
6 holdback, and CSA to 10%, which will help ensure that an adjustment in fee awards can be
7 accommodated if necessary. In addition, the proposed procedures are voluntary, such that the
8 Debtor may decline to make monthly payments if it is not financially advisable to do so.

9 Fourth, the proposed fee procedure is the subject of a noticed motion and a hearing, to be
10 heard before the Debtor makes any payments pursuant thereto.

11 Although not expressly identified by the BAP in *Knudsen*, there is at least one other factor
12 warranting approval of the Debtor's proposed procedures. Paying the professionals on a monthly
13 basis will allow the Debtor to better monitor the fees and costs being incurred by the estate, and
14 manage the estate's monthly cash flow to help ensure that the estate is administered as efficiently
15 as possible.

VI.

CONCLUSION AND REQUESTED RELIEF

19 For the foregoing reasons, the Debtor requests that the Court enter an order establishing a
20 procedure for monthly payments of compensation and reimbursement of expenses incurred by
21 professionals of the estate. The Debtor also requests such further relief as the Court deems just and
22 proper.

24 | DATED: January 10, 2023

DANNING, GILL, ISRAEL & KRASNOFF, LLP

By: */s/ Aaron E. de Leest*

AARON E. DE LEEST

Proposed Attorneys for Debtor and

Debtor-in-Possession, Better Nutritionals, LLC

DECLARATION OF SHARON HOFFMAN

I, Sharon Hoffman, declare and state as follows:

1. I am a co-founder of, and am the Manager and Chief Executive Officer of, Better Nutritionals, LLC (the “Debtor”).

5 2. On December 20, 2022 (the “Petition Date”), the Debtor filed a voluntary petition
6 for relief under chapter 11 of title 11 of the United States Code (the “Code”). The chapter 11 case
7 (the “Case”) is pending in the Riverside Division of the United States Bankruptcy Court for the
8 Central District of California (the “Court”). This declaration is offered in support of the foregoing
9 motion for an order establishing procedures for the payment of interim compensation and
10 reimbursement of expenses.

11 3. I am generally familiar with the Debtor's day-to-day operations, business, financial
12 affairs, and books and records. Unless stated otherwise, all facts in this declaration are based upon
13 my personal knowledge.

14 4. I am over the age of 18 and am authorized to submit this declaration on behalf of the
15 Debtor. If called to testify, I would testify to the matters set forth in this declaration.

16 5. The Debtor intends to file applications to employ professionals: Danning, Gill,
17 Israel & Krasnoff, LLP, as general bankruptcy counsel; CSA Partners, LLC, as financial
18 consultant; Force 10 Partners, as financial advisor; Folkenflik & McGerity, as special litigation
19 counsel; and Stursberg and Associates, LLC (“Stursberg”) as special corporate counsel
20 (collectively, the “Professionals). As the Debtor’s CEO and manager, I have authorized and am
21 seeking the Court’s approval of the employment of the Professionals.

22 6. Together with the Professionals, I anticipate that the Debtor may determine that it is
23 necessary or appropriate to hire other or additional professionals to represent or counsel the Debtor
24 in matters involving the estate. I am also informed that a creditors' committee will also likely be
25 appointed and it will also seek to employ counsel.

26 7. For the reasons set forth in the Motion, we are requesting that the Court approve the
27 proposed procedures for monthly interim payments of compensation and reimbursement of actual
28 expenses incurred by the Debtor's professionals, and counsel for any creditors' committee

1 appointed. I understand that such procedures are often utilized in large bankruptcy cases in which
2 professionals will be required to incur substantial fees and expenses, and where the non-payment of
3 fees and expenses on a monthly basis will cause a hardship to professionals. I believe that this is
4 such a case.

5

6 I declare under penalty of perjury under the laws of the United States of America that the
7 foregoing is true and correct.

8 Executed on January 9, 2023, at Norco, California.

9

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Sharon Hoffman

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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 1901 Avenue of the Stars, Suite 450, Los Angeles, CA 90067-6006.

A true and correct copy of the foregoing document entitled (specify): NOTICE OF MOTION AND MOTION FOR ORDER ESTABLISHING PROCEDURES FOR THE PAYMENT OF INTERIM COMPENSATION AND REIMBURSEMENT OF EXPENSES (11 U.S.C. §§ 105(a) AND 331); AND MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATION OF SHARON HOFFMAN IN SUPPORT THEREOF will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On January 10, 2023 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page.

2. SERVED BY UNITED STATES MAIL: On January 10, 2023, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by causing to be placed a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page.

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

January 10, 2023

Date

Beverly Lew
Printed Name

/s/ Beverly Lew
Signature

ADDITIONAL SERVICE INFORMATION (if needed):

1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (“NEF”)

Marshall J August on behalf of Creditor Suitable Staffing Solutions
maugust@frandzel.com, rsantamaria@frandzel.com

Reem J Bello on behalf of Interested Party Reem J Bello rbello@goforlaw.com,
kmurphy@goforlaw.com

Anthony Bisconti on behalf of Interested Party Courtesy NEF
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Richard D Buckley on behalf of Interested Party Courtesy NEF richard.buckley@arentfox.com

Aaron E. DE Leest on behalf of Debtor Better Nutritionals, LLC
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Abram Feuerstein, esq on behalf of U.S. Trustee United States Trustee (RS)
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Adam R. Fracht on behalf of Interested Party Courtesy NEF afracht@stibbsco.com

Robert P Goe on behalf of Interested Party Robert P Goe
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Michael J Gomez on behalf of Interested Party Courtesy NEF
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Everett L Green on behalf of U.S. Trustee United States Trustee (RS) everett.l.green@usdoj.gov

Garrick A Hollander on behalf of Creditor Southwest Material Handling, Inc. dba Southwest Toyota Lift
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Eve H. Karasik on behalf of Interested Party Goli Nutrition, Inc. ehk@lnbyg.com

Michael S Myers on behalf of Debtor Better Nutritionals, LLC
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John N Tedford, IV on behalf of Debtor Better Nutritionals, LLC
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Thomas Tysowsky on behalf of Creditor Atos IT Solutions and Services, Inc.
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United States Trustee (RS) ustpregion16.rs.ecf@usdoj.gov

Christopher K.S. Wong on behalf of Interested Party Courtesy NEF
christopher.wong@afslaw.com, yvonne.li@arentfox.com

2. SERVED BY U. S. MAIL

Debtor Better Nutritionals, LLC 3390 Horseless Carriage Drive Norco, CA 92860	Hon. Mark Houle U. S. Bankruptcy Court 3420 Twelfth Street, Suite 325 Riverside, CA 92501-3819
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20 LARGEST UNSECURED CREDITORS

Capital One PO Box 30285 Salt Lake City, UT 84130-0285	Capital One Financial Corp c/o Officer, Managing or General Agent 1680 Capital One Drive McLean, VA 22102-3491	Caliber Construction Inc 240 N. Orange Avenue Brea, CA 92821
Caliber Construction Inc c/o Anna M. Carno, Esq. Carno Law Group 24031 El Toro Rd., Suite 260 Laguna Hills, CA 92653	Southern California Edison P. O. Box 300 Rosemead, CA 91772	Shri Kartikeya Pharma c/o Tara L. Blake, Esq. Butler Snow, LLP 150 3rd Avenue South, Suite 1600 Nashville, TN 37201
Citistaff Solutions, Inc. Attn: Legal Dept./Slater & Assoc. c/o Charles C. Slater, Esq. 1111 W. Town & Country Rd., Suite 30 Orange, CA 92868	Amtech Ingredients 517 Adams Avenue Albert Lea, MN 56007	AGPE Corp. 21715 The Trails Circle Murrieta, CA 92562
AGPE Corp. c/o Ariel Guizar, Agent for Service of Process 21715 The Trails Circle Murrieta, CA 92562	Saddle Ranch APG LLC PO Box 51930 Los Angeles, CA 90051	Saddle Ranch APG LLC c/o Daniel L. Webb, Agent for Service of Process 100 Bayview Circle, Suite 310 Newport Beach, CA 92660
BRS Beyond Resource Solutions, Inc 1475 South State College Blvd Suite 116 Anaheim, CA 92806	BRS Beyond Resource Solutions, Inc. c/o Clayton J. Hix, Esq. Hill, Farrer & Burrill LLP 300 S. Grand Avenue, 37th Floor Los Angeles, CA 90071	SouthWest ToyotaLift PO Box 1070 3725 Nobel Ct. Mira Loma, CA 91752 SERVED VIA NEF ON: Garrick A Hollander on behalf of Creditor Southwest Material Handling, Inc. dba Southwest Toyota Lift ghollander@wghlawyers.com, jmartinez@wghlawyers.com;svillegas@w ghlawyers.com

J. Rettenmaier USA LP 16369 US 131 Highway Schoolcraft, MI 49087	J. Rettenmaier USA LP c/o Richard O. Cherry, Esq. Miller Johnson 100 W. Michigan Ave., Suite 200 Kalamazoo, MI 49007	Mold Rite Plastics PO Box 160 100 N. Field Drive Lake Forest, IL 60045
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Stratum HR LLC 23052 Alicia Parkway, Suite H533 Mission Viejo, CA 92692	Stratum HR LLC c/o 1505 Corporation 1108 Pacific Registered Agents, Inc. Four Embarcadero Center, Ste. 1400 #85 San Francisco, CA 94111	Southern California Edison c/o Cristina Limon, Agent for Service of Process 2244 Walnut Grove Ave. Rosemead, CA 91770
Servicon Systems, Inc. 3965 Landmark Street Culver City, CA 90232	Servicon Systems, Inc. c/o Nick Iezza, Esq. Spiwak & Iezza 555 Marin St., Suite 140 Thousand Oaks, CA 91360	Custom Ingredients Inc 160 Calle Iglesia San Clemente, CA 92672
Custom Ingredients Inc. c/o Robert J. Danko, Esq. Law Office of Robert J. Danko 31805 Temecula Parkway, #623 Temecula, CA 92592	Shri Kartikeya Pharma H. no. 5-5-36/15/A, Opp NCS complex Prashanti Nagar, IDA kukatpally Hyderabad, Telangana 500072 INDIA	LS Link Co Ltd Unit 208A 25/F Bank of America Twr 12 Harcourt Road Central, Hong Kong
Tay Ninh Tapioca Joint Stock Company Tan Binh Hamlet Tay Ninh Province, VIETNAM	Tay Ninh Tapioca JSC c/o Officer, Managing or General Agent CH1, Sky Center 5B Pho Quang Street, Ward 2, Tan Binh District, Ho Chi Minh City, VIETNAM	